In the Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-1487

CONFEDERATION LIFE INSURANCE COMPANY,
PETITIONER

v.

HECTOR DE LARA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

At the request of the Department of State, I transmit the attached note from the Canadian Ambassador to the Secretary of State concerning this case.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

JUNE 1972.

468-165—72

CANADIAN EMBASSY—AMBASSADE DU CANADA

WASHINGTON, D.C.,
May 15, 1972.

No. 127

Hon. WILLIAM P. ROGERS,
The Secretary of State,
Washington, D.C.

SIR: I have the honour, acting on instructions of and on behalf of the Government of Canada, to present the following observations of the Canadian Government on the pending petition to the Supreme Court of the United States of America, October Term 1971, for a writ of certiorari to the Supreme Court of Florida, in the case of Confederation Life Insurance Company, a Canadian corporation, petitioner, versus Hector deLara, respondent. I have the honour to request you to transmit this Note, or the representations made therein, to the Supreme Court of the United States for its consideration.

The Government of Canada wishes to express its serious concern with respect to the effect of earlier rulings in this case in the Circuit Court of the Eleventh Judicial Circuit of Dade County, Florida; and in the Supreme Court of Florida which quashed the decision of the District Court of Appeal of Florida. The Government of Canada is anxious that the judgment of the Supreme Court of Florida be reviewed by the Supreme Court of the United States.

While the petition in question might appear to involve only the matter of a single policy of insurance—under which is payable the amount of Ten Thousand Dollars—it is the view of the Government of Canada that the implications of the deLara decision are of a much greater and more serious magnitude. It is the hope of the Canadian Government that the Supreme Court of the United States may take into account the following considerations when the Court considers this petition.

There are ten major Canadian life insurance companies that might be affected by the deLara decision, all of which have written policies of insurance in countries other than the United States and Canada having a total cash surrender value considerably in excess of $1 billion. If the precedent established by the deLara decision remains unchanged, then in cases where insurance policies are payable in currencies determined either by the parties to the contract or by an act of government, policyholders who had purchased policies outside the United States and who do not still reside in the countries where the policies were issued could evade the foreign exchange control regulations of the country where the policies were issued by demanding payment of the cash surrender value of their policies in Florida. Further, as funds covering the liabilities represented by insurance policies issued in any jurisdiction, including Canada and the American states, must be maintained in that jurisdiction and are subject to any foreign exchange control regulations of that jurisdiction which may prevent the insurance

company from drawing on such funds to satisfy the demands, the insurance company would have to draw on its reserves of United States dollars or convert its Canadian dollar reserves to United States dollars to meet its future obligations and could also bring the insurance company into conflict with the laws of the country where the contract was made, which in the case of Cuba, would result in the confiscation of the insurance company's assets in Cuba.

It is not the intention of the Government of Canada to ask for leave to intervene in the case directly. However, because of the potential seriousness of the deLara decision, the Canadian Government is desirous that the case be reviewed by the Supreme Court of the United States.

I therefore hope that you may consider it feasible and appropriate to transmit this Note to the Supreme Court of the United States of America in order that the Court may be able to take into account the views of the Government of Canada when it considers the pending petition.

Please accept, Sir, the renewed assurances of my highest consideration.

M. Cadieux,
M. CADIEUX,
Ambassador.

U.S. GOVERNMENT PRINTING OFFICE: 1972